

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Owen Godshall	Team: Squad #16	CCRB Case #: 201701165	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 01/21/2017 3:00 PM	Location of Incident: East 55th Street and Madison Avenue	Precinct: 18	18 Mo. SOL 7/21/2018	EO SOL 7/21/2018	
Date/Time CV Reported Sat, 02/04/2017 3:15 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 02/14/2017 11:25 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Ana Montoya	10116	944822	SRG 1
2. POM Jon-Michael De La Rosa	17451	951668	SRG 1
3. POM Timothy House	30423	946493	SRG 1

Officer(s)	Allegation	Investigator Recommendation
A.POF Ana Montoya	Force: Police Officer Ana Montoya used physical force against § 87(2)(b)	
B.POM Jon-Michael De La Rosa	Force: Police Officer Jon-Michael De La Rosa used physical force against § 87(2)(b)	
C.POM Jon-Michael De La Rosa	Abuse: Police Officer Jon-Michael De La Rosa refused to provide his name to § 87(2)(b)	
D.POM Timothy House	Abuse: Police Officer Timothy House refused to provide his name to § 87(2)(b)	

Case Summary

On February 4, 2017, § 87(2)(b) filed this complaint with IAB via telephone. It was forwarded to the CCRB via IAB log #2017-5233 on February 14, 2017.

At approximately 3:00 p.m. on January 21, 2017, § 87(2)(b) participated in the Women's March, a political demonstration that was held along Fifth Avenue in Manhattan. § 87(2)(b) and the other demonstrators were redirected east off of Fifth Avenue onto East 55th Street, heading towards Madison Avenue. When § 87(2)(b) reached the intersection with Madison Avenue, he decided to walk north on Madison Avenue. The police, however, had blocked off access to Madison Avenue. § 87(2)(b) approached one of the police officers directing pedestrian traffic at the intersection, PO Ann Montoya of SRG 1. When § 87(2)(b) asked PO Montoya if he could pass through to Madison Avenue, she pushed him away (**Allegation A**). § 87(2)(b) turned from PO Montoya and started to walk away. Two additional officers, PO Jon-Michael De La Rosa and PO Timothy House of SRG 1, approached § 87(2)(b) from behind. PO De La Rosa pushed § 87(2)(b) from behind (**Allegation B**). Both officers told § 87(2)(b) to walk away. § 87(2)(b) told the officers that he was going to file a complaint against them. He then asked the two officers for their names. Neither officer responded (**Allegations C and D**). § 87(2)(b) then walked away. He was not arrested or issued a summons.

Video footage was not obtained regarding this incident.

Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation.
- As of May 10, 2017, § 87(2)(b) has not filed a Notice of Claim with the NYC Comptroller's office in regards to this incident (See Board Review #01: Notice of Claim).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by or on behalf of § 87(2)(b) (See Board Review #03: Civilian CCRB History).
- PO Montoya has been a member of the service for nine years and there are no substantiated CCRB complaints against her. She has been the subject of one previous allegation. This is the first force allegation made against her.
- PO De La Rosa has been a member of the service for five years and there are no substantiated CCRB complaints against him. He has been the subject of two previous allegations in one case. Both of these allegations were for physical force, and both were closed as unsubstantiated. This is the first refusal to provide name and/or shield allegation that has been pleaded against him.
- PO House has been a member of the service for nine years and there are no substantiated CCRB allegations against him. He has been the subject of eight previous allegations in four cases. This is the first refusal to provide name and/or shield allegation that has been pleaded against him.

Potential Issues

- An initial search of the incident on Google Maps showed that there were no TARU cameras posted at the location. A video camera was visible posted on the corner of 550 Madison Avenue. A listing of TARU cameras indicated that none were posted at the intersection. During fieldwork at the incident location on March 2, 2017, a representative of 550 Madison Avenue stated that the building's cameras were not functional at the time of the incident. Additionally, three TARU cameras were found to have been posted at the intersection recently. When the footage was requested from TARU, however, the undersigned investigator was informed that it had been deleted on February 21, 2017.

Findings and Recommendations

Identification of Subject Officers

- § 87(2)(b) described the first officer who allegedly pushed him as a heavyset 5'2" Hispanic female in her 30s. PO Montoya is a 5'4", 200-pound Hispanic female. She is § 87(2)(b) years old. While PO Montoya and PO De La Rosa did not recall interacting with § 87(2)(b), PO House did. He stated that § 87(2)(b) spoke to PO Montoya either shortly before or shortly after he did. § 87(2)(g)

Allegation A –Force: Police Officer Ann Montoya used physical force against § 87(2)(b)

§ 87(2)(b) provided a telephone statement on February 22, 2017. He was then interviewed on February 24, 2017 at § 87(2)(b) § 87(2)(b) (See Board Review #04-05: § 87(2)(b)'s Statements). He stated that at the time of the incident, he was participating in a large march with thousands of other demonstrators. When the march passed through the intersection of East 55th Street and Madison Avenue, he saw that the police had closed off the section of Madison Avenue north of the intersection using police tape. PO Montoya, PO De La Rosa and PO House were all standing at the intersection to direct the demonstrators. § 87(2)(b) approached PO Montoya and asked her if he could pass through the police tape and walk north on Madison Avenue. She responded by pushing § 87(2)(b) back with one hand. In his telephone statement, he alleged that she pushed him lightly on his shoulder. In his sworn statement, he alleged that she pushed him on his solar plexus. PO Montoya did not say anything to him. § 87(2)(b) was not injured or knocked over by this use of force. After PO Montoya pushed him, § 87(2)(b) turned around and walked away.

PO Montoya was interviewed at the CCRB on May 10, 2017. PO De La Rosa was interviewed at the CCRB on March 20, 2017. PO House was interviewed at the CCRB on March 27, 2017 (See Board Review #06-08: MOS Statements). While PO Montoya and PO De La Rosa recalled being assigned to monitor the march at the intersection, they did not recall an interaction with § 87(2)(b). PO Montoya recalled speaking to several females about walking north on Madison Avenue, but denied discussing the matter with any males. She denied pushing any individuals or making physical contact any individuals.

PO De La Rosa confirmed that he was working at the intersection at the time, but he did not recall any interactions between § 87(2)(b) and the officers with him. He did not recall any officers pushing § 87(2)(b) or any other civilians. PO House recalled seeing § 87(2)(b) speak to PO Montoya but did not recall what they spoke about. He denied that PO Montoya made any physical contact with § 87(2)(b) during their interaction.

§ 87(2)(g)

Allegation B – Force: Police Officer John De La Rosa used physical force against § 87(2)(b)

§ 87(2)(b) provided his initial complaint to IAB on February 4, 2017 (See Board Review #09 – § 87(2)(b)'s Complaint). In it, he alleged that PO De La Rosa and PO House both pushed him after he interacted with PO Montoya. In his sworn statement, § 87(2)(b) stated that after he walked away from PO Montoya, PO De La Rosa walked up behind him and shoved him. PO De La Rosa used two hands, making contact with § 87(2)(b)'s shoulders. § 87(2)(b) was not injured or knocked down as a result of this action. PO De La Rosa and PO House then ordered § 87(2)(b) to walk to the nearest sidewalk.

PO De La Rosa did not recall interacting with § 87(2)(b). He did not recall pushing any civilians or ordering any civilians to move to the sidewalk. PO Montoya also did not recall the incident. She was not aware of any officer making any physical contact with the civilians at the intersection.

PO House did recall interacting with § 87(2)(b). At the time, PO House and the other officers at the intersection were charged with controlling pedestrian traffic to prevent it from blocking vehicular traffic along Madison Avenue. While crossing the street, § 87(2)(b) paused and stood in the middle of Madison Avenue in a position that would have obstructed vehicular traffic. PO House walked up to § 87(2)(b) by himself and asked him to move. PO De La Rosa was standing several feet away from the two of them at the time. PO House placed a hand on § 87(2)(b)'s right upper arm and told him to keep walking. § 87(2)(b) reacted by jerking his arm away. This was the only physical contact that any officer made with § 87(2)(b). PO House denied that PO De La Rosa or any other officer pushed or otherwise touched § 87(2)(b).

§ 87(2)(g)

Allegation C – Abuse of Authority: Police Officer John De La Rosa refused to provide his name to § 87(2)(b)

Allegation D – Abuse of Authority: Police Officer Timothy House refused to provide his name to § 87(2)(b)

In his sworn statement, § 87(2)(b) alleged that after PO De La Rosa pushed him, he and PO House ordered § 87(2)(b) to walk over to the nearby sidewalk. He then asked both officers for their names. Neither of them said anything in response. § 87(2)(b) however, was able to learn their names by reading their nameplates. In his telephone statement, however, § 87(2)(b) indicated that when he asked the officers for their names, both stated their names aloud to him.

PO De La Rosa and PO Montoya did not recall interacting with § 87(2)(b). They did not recall any civilian stating that they were going to file a complaint against him. PO De La Rosa did not recall being asked for his name or shield number at any point during the incident.

PO House did recall speaking to § 87(2)(b). He stated that after he told § 87(2)(b) to walk across the street, § 87(2)(b) asked both him and PO De La Rosa for their names and shield numbers. Both he and PO De La Rosa provided this information to § 87(2)(b) verbally. PO House's account of this interaction matches the account that § 87(2)(b) provided in his telephone statement.

§ 87(2)(g)

Squad:

Investigator:	_____	_____	_____
	Signature	Print	Date
Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date